

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Jimmy Duncan, a/k/a Jimmy L. Duncan,	)	
	)	C/A No. 8:08-0499-MBS
Plaintiff,	)	
	)	
vs.	)	
	)	
Ms. Vera Jenkins (IGC); Mr. Scott Harvin;	)	
John Ozmint, Prison Director; and	)	<b>O R D E R</b>
Ms. Jennifer Jordan, Assistant Solicitor;	)	
all Defendants Sued in Their Official/	)	
Individual Capacities;	)	
	)	
Defendants.	)	
_____	)	

At the time of the underlying complaint, Plaintiff was an inmate in custody of the South Carolina Department of Corrections. On February 15, 2008, Plaintiff, proceeding pro se, filed the within complaint pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling. The Magistrate Judge reviewed the petition pursuant to 28 U.S.C. §§ 1915, 1915A, and the Prison Litigation Reform Act of 1996. On April 3, 2008, the Magistrate Judge issued a Report and Recommendation in which she recommended that the complaint be dismissed for failing to state a claim upon which relief may be granted. Accordingly, the Magistrate Judge recommended that the within petition be summarily dismissed without prejudice and without issuance of service of process. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo

determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within action is dismissed without prejudice and without issuance of service of process.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

May 6, 2008

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**